

HOUSE No. 4468

The Commonwealth of Massachusetts

HOUSE OF REPRESENTATIVES, October 31, 2005.

The committee on Revenue, to whom was referred the petition (accompanied by bill, House, No. 2385) of Paul C. Casey and others relative to the taxation of certain disabled and elderly property owners, reports recommending that the accompanying bill (House, No. 4468) ought to pass.

For the committee,

JOHN J. BINIENDA.

The Commonwealth of Massachusetts

In the Year Two Thousand and Five.

AN ACT RELATIVE TO THE TAXATION OF CERTAIN ELDERLY PROPERTY OWNERS.

1 *Whereas*, The deferred operation of this act would tend to
2 defeat its purpose, which is forthwith to provide relief from the
3 problem facing many members of the senior population in the
4 Commonwealth created by substantial increases in real estate
5 taxes, therefore it is hereby declared to be an emergency law, nec-
6 essary for the immediate preservation of the public convenience.

Be it enacted by the Senate and House of Representatives in General Court assembled, and by the authority of the same, as follows:

1 SECTION 1. Section 5 of chapter 59 of the General Laws, as
2 appearing in the 2004 Official Edition, is hereby amended by
3 inserting, in line 9, after the figure “Forty-first C” the following
4 figure:— , Forty-first C½.

1 SECTION 2. Clause Eighteenth of section 5 of chapter 59 of
2 the General Laws, as so appearing, is hereby amended by striking
3 out, in line 438, the word “and” and inserting in place thereof the
4 following word:— or.

1 SECTION 3. Said clause Eighteenth of said section 5 of said
2 chapter 59 of the General Laws, as so appearing, is hereby further
3 amended by adding at the end thereof the following paragraph:—
4 The eligibility of said persons to defer any portion of their tax
5 liability under the provisions of clause Forty-first A shall not be
6 considered by the assessors in determining poverty or financial
7 hardship.

1 SECTION 4. Clause forty-first of section 5 of Chapter 59 of the
2 General Laws, as appearing in the 2004 Official Edition, is hereby

3 amended by striking in its entirety the last sentence of the first
4 paragraph and inserting in place thereof the following:—

5 “Any person who receives an exemption under the provisions
6 of this clause shall not receive an exemption on the same property
7 under any other provision of this section except clause Eighteenth,
8 Thirty-seventh, and Thirty-seventh A.”

1 SECTION 5. Said section 5 of said chapter 59 of the General
2 Laws, as so appearing, is hereby further amended by striking out
3 clause Forty-first A and inserting in place thereof the following
4 clause:—

5 Forty-first A, Real property, to an amount determined as here-
6 inafter provided, of a person 65 years of age or over or disabled
7 and occupied by him as his domicile, of a person who owns the
8 same jointly with his spouse, either of whom is 65 years of age or
9 over or disabled, and occupied as their domicile, or of a person
10 who owns the same jointly or as a tenant in common with a person
11 not his spouse and occupied by him as his domicile; provided, that
12 such person has been domiciled in the commonwealth for the pre-
13 ceding 10 years; and

14 (1) has so owned and occupied as his domicile such real prop-
15 erty or other real property in the commonwealth for 5 years; or

16 (2) is a surviving spouse who inherits such real property and
17 has occupied such real property or other real property in the com-
18 monwealth as his or her domicile for 5 years and who otherwise
19 qualifies under this clause; and provided further, that such person,
20 and such person and his spouse, if married, had, during the pre-
21 ceding year, gross receipts from all sources not in excess of
22 \$20,000. Any city or town may also, by vote of its legislative
23 body, adopt a higher maximum qualifying gross receipts amount
24 for the purposes of this section; provided, however, that such
25 maximum qualifying gross receipts amount shall not exceed the
26 amount of income determined by the commissioner for the pur-
27 poses of subsection (k) of section 6 of chapter 62.

28 In determining the total period ownership of an applicant for
29 exemption under this clause, the time during which the same prop-
30 erty was owned by a husband or wife individually shall be added
31 to the period during which such property was owned by said hus-
32 band and wife jointly. In computing the gross receipts of such an

33 applicant or of such an applicant and his spouse, if married, ordi-
34 nary business expenses and losses may be deducted but not per-
35 sonal and family expenses.

36 Any such person may, on or before December 15 of each year
37 to which the tax relates or within 3 months after the date on which
38 the bill or notice is first sent, whichever is later, apply to the board
39 of assessors for an exemption of all or part of such real property
40 from taxation during such year; provided, however, that in the
41 case of real estate owned by a person jointly or as a tenant in
42 common with a person not his spouse, the exemption shall not
43 exceed that proportion of total valuation which the amount of his
44 interest in such property bears to the whole tax due. The board of
45 assessors shall grant such exemption provided that the owner or
46 owners of such real property have entered into a tax deferral and
47 recovery agreement with said board of assessors on behalf of the
48 city or town. The said agreement shall provide:

49 (1) that no sale or transfer of such real property may be con-
50 summated unless the taxes which would otherwise have been
51 assessed on such portion of the real property as is so exempt have
52 been paid, with interest at a uniform rate to be determined annu-
53 ally by the local appropriating authority not in excess of 8 per cent
54 per annum;

55 (2) that the total amount of such taxes due, plus interest, for the
56 current and prior years does not exceed 50 per cent of the owner's
57 proportional share of the full and fair cash value of such real prop-
58 erty;

59 (3) that upon the demise of the owner of such real property, the
60 heirs-at-law, assignees or devisees shall have first priority to said
61 real property by paying in full the total taxes which would other-
62 wise have been due, plus interest; provided, however, if such heir-
63 at-law, assignee or devisee is a surviving spouse who enters into a
64 tax deferral and recovery agreement under this clause, payment of
65 the taxes and interest due shall not be required during the life of
66 such surviving spouse. Any additional taxes deferred, plus
67 interest, on said real property under a tax deferral and recovery
68 agreement signed by a surviving spouse shall be added to the
69 taxes and interest which would otherwise have been due, and the
70 payment of which has been postponed during the life of such sur-

71 living spouse, in determining the 50 per cent requirement of sub-
72 paragraph (2);

73 (4) that if the taxes due, plus interest, are not paid by the heir-
74 at-law, assignee or devisee or if payment is not postponed during
75 the life of a surviving spouse, such taxes and interest shall be
76 recovered from the estate of the owner; and

77 (5) that any joint owner or mortgagee holding a mortgage on
78 such property has given written prior approval for such agree-
79 ment, which written approval shall be made a part of such agree-
80 ment.

81 In the case of each tax deferral and recovery agreement entered
82 into between the board of assessors and the owner or owners of
83 such real property, said board of assessors shall forthwith cause to
84 be recorded in the registry of deeds of the county or district in
85 which the city or town is situated a statement of their action which
86 shall constitute a lien upon the land covered by such agreement
87 for such taxes as have been assessed under the provisions of this
88 chapter, plus interest as hereinafter provided. A lien filed pursuant
89 to this section shall be subsequent to any liens securing a reverse
90 mortgage, excepting shared appreciation instruments. The state-
91 ment shall name the owner or owners and shall include a descrip-
92 tion of the land adequate for identification. Unless such a
93 statement is recorded the lien shall not be effective with respect to
94 a bona fide purchaser or other transferee without actual knowl-
95 edge of such lien. The filing fee for such statement shall be paid
96 by the city or town and shall be added to and become a part of the
97 taxes due.

98 In addition to the remedies provided by this clause, the
99 recorded statement of the assessors provided for in this clause
100 shall have the same force and effect as a valid taking for nonpay-
101 ment of taxes under the provisions of section 53 of chapter 60,
102 except that: (1) interest shall accrue at the rate determined under
103 this clause for each year until the conveyance of the property or
104 the death of the person whose taxes have been deferred, after
105 which time interest shall accrue at the rate provided in section 62
106 of chapter 60; (2) no assignment of the municipality's interest
107 under this clause may be made pursuant to section 52 of
108 chapter 60; (3) no petition under section 65 of chapter 60 to fore-
109 close the lien may be filed before the expiration of six months

110 from the conveyance of the property or the death of the person
111 whose taxes have been deferred.

112 For purposes of this clause, the term “disabled” shall refer to an
113 individual who has been determined disabled for purposes of
114 Social Security Disability Insurance or Supplemental Security
115 Income programs created under title II and XVI, respectively, of
116 the Social Security Act.

1 SECTION 6. Said section 5 of said chapter 59 of the General
2 Laws, as so appearing, is hereby further amended by inserting
3 after clause Forty-first C the following clause:—

4 Forty-first C½, Real property, of an amount equal to 10 per cent
5 of the average assessed value of all Class One parcels within such
6 city or town of the principal residence of a taxpayer as used by the
7 taxpayer for income tax purposes of a person who has reached his
8 seventieth birthday prior to the fiscal year for which an exemption
9 is sought and occupied by said person as his domicile, or of a
10 person who owns the same jointly with his spouse, either of whom
11 has reached his seventieth birthday prior to the fiscal year for
12 which an exemption is sought and occupied by them as their
13 domicile, or for a person who has reached his seventieth birthday
14 prior to the fiscal year for which an exemption is sought who
15 owns the same jointly or as a tenant in common with a person not
16 his spouse and occupied by him as his domicile; provided: (A)
17 that such person (1) has been domiciled in the commonwealth for
18 the preceding 10 years, (2) has so owned and occupied such real
19 property or other real property in the commonwealth for 5 years,
20 or 3) is a surviving spouse who inherits such real property and has
21 occupied such real property in the commonwealth 5 years and
22 who otherwise qualified under this clause; and (B) that such tax-
23 payer’s total income, as defined in subsection (k) of section 6 of
24 chapter 62, would qualify such person for the credit therein pro-
25 vided for the tax year ending during the fiscal year to which such
26 assessment applies.

27 A city, by vote of its council and approval of its mayor, or a
28 town, by vote of town meeting, may adjust the following factors
29 contained in these provisions by: 1) increasing the amount of the
30 exemption to as much as 20 per cent of the average assessed value
31 of all Class One parcels within such city or town; 2) reducing the

32 requisite age of eligibility to any person age 65 years or older; and
33 3) reducing the residency requirements to not less than 5 years.

34 In those cities and towns which accept the provisions of this
35 clause, the provisions of clauses Forty-first, Forty-first B and
36 Forty-first C shall not be applicable; provided, however, that any
37 amount of money annually appropriated by the commonwealth for
38 the purpose of reimbursing cities and towns for taxes abated under
39 this clause, clause Forty-first, clause Forty-first B and clause
40 Forty-first C shall be distributed as provided in said clause Forty-
41 first.

1 SECTION 7. Section 5K of chapter 59 of the General Laws, as
2 appearing in the 2004 Official Edition, is hereby amended by
3 striking out the second sentence and inserting in place thereof the
4 following sentence:— In exchange for such volunteer services, the
5 city or town shall reduce the real property tax obligations of such
6 person over the age of 60 on his tax bills and any reduction so
7 provided shall be in addition to any exemption or abatement to
8 which any such person is otherwise entitled and no such person
9 shall receive a rate of, or be credited with, more than 2 times the
10 current minimum wage of the commonwealth per hour for serv-
11 ices provided pursuant to such reduction nor shall the reduction of
12 the real property tax bill exceed \$1,000 in a given tax year.

1 SECTION 8. Section 62 of chapter 60 of the General Laws, as
2 appearing in the 2004 Official Edition, is hereby amended by
3 striking out, in lines 14 through 15, the words:— “, each of which
4 except the last, shall be in an amount of not less than twenty-five
5 per cent of the sum for which the land was originally sold,”. and
6 by striking out, in lines 34 through 37, the words:— “, for a
7 period not exceeding one year beyond the time period provided by
8 section sixty-five; but not more than one such extension shall be
9 granted” and inserting in place thereof the words:— “, for a period
10 not exceeding two years beyond the time period provided by
11 section sixty-five”.

1 SECTION 9. Said section 62 of said chapter 60 of the General
2 Laws, as so appearing, is hereby amended by striking out, in
3 lines 24 through 27, the words:— “, for a period not exceeding

4 one year beyond the time period provided by section sixty-five;
5 but not more than one such extension shall be granted” and
6 inserting in place thereof the words:— “, for a period not
7 exceeding two years beyond the time period provided by section
8 sixty-five”.

1 SECTION 10. Paragraph (1) of subsection (k) of section 6 of
2 chapter 62 of the General Laws, as appearing in the 2004 Official
3 Edition, is amended by inserting after the definition of “Head of
4 household” the following definition:—

5 “Price-of-housing adjustment”, for any calendar year, the per-
6 centage, if any, by which the statewide average sale price for a
7 single-family home for the preceding calendar year, as reported by
8 the department of housing and community development, exceeds
9 the statewide average sale price for a single-family home for cal-
10 endar year 2003, as reported by same.

1 SECTION 11. Said paragraph (1) of said subsection (k) of said
2 section 6 of said chapter 62 of the General Laws, as so appearing,
3 is hereby further amended by striking the definition of “Taxpayer
4 Income” and inserting in place thereof the following two defini-
5 tions:— “Senior Property Tax Relief Credit”, the credit provided
6 by this subsection.

7 “Taxpayer’s total income”, the sum of the taxpayer’s Part A
8 adjusted gross income, Part B adjusted gross income and Part C
9 adjusted gross income, as defined in section 2, increased by, to the
10 extent they are excluded or subtracted from adjusted gross
11 income, the following: the total amount of income and receipts
12 from social security, retirement, pension, or annuities, cash, but
13 not in-kind, public assistance, tax-exempt interest and dividends,
14 capital gains deducted pursuant to subparagraph (K) of
15 paragraph (1) of subsection (d) of section 2, income from a part-
16 nership or trust not included therein and gross receipts from any
17 other source other than assistance received by this subsection; and
18 reduced by the total amount of the exemptions allowed by sub-
19 paragraphs (B) and (C) of paragraph (1), subparagraphs (B) and
20 (C) of paragraph (1A), subparagraphs (B) and (C) of paragraph
21 (2), and paragraph (3), of subsection (b) of section 3.

1 SECTION 12. Paragraph (2) of said subsection (k) of said
2 section 6 of said chapter 62 of the General Laws, as so appearing,
3 is hereby further amended by striking out, in line 32, the figure
4 “10” and inserting in place thereof the following figure:— 8.

1 SECTION 13. Paragraph (2) of said subsection (k) of said
2 section 6 of said chapter 62 of the General Laws, as so appearing,
3 is hereby further amended by striking out subparagraph (ii) and
4 inserting in place thereof the following subparagraph:—

5 (ii) the assessed valuation of the residence does not exceed
6 \$750,000.

1 SECTION 14. Subsection (k) of said section 6 of said
2 chapter 62 of the General Laws, as so appearing, is hereby
3 amended by striking out paragraph 4 and inserting in place thereof
4 the following paragraph:—

5 (4) For a taxable year beginning on or after January 1, 2001, the
6 income, valuation and credit limits in this subsection shall be
7 increased by amounts equal to such income, valuation and credit
8 limits multiplied by the cost-of-living adjustment for the calendar
9 year in which such taxable year begins. For a taxable year begin-
10 ning on or after January 1, 2006, the valuation limit in this subsec-
11 tion shall be increased by amounts equal to such valuation credit
12 limit multiplied by the price of housing adjustment for the cal-
13 endar year in which such taxable year begins. If any such increase
14 in an income or valuation limit is not a multiple of \$1,000, such
15 increase shall be rounded to the next lowest multiple of \$1,000. If
16 the increase in the credit limit is not a multiple of \$10, such
17 increase shall be rounded to the next lowest multiple of \$10.

1 SECTION 15. There is hereby established the elderly persons
2 tax relief outreach program for the purposes of assisting elderly
3 residents of the commonwealth in obtaining information about
4 available options designed to provide relief from state and local
5 taxes.

6 The secretary of the commonwealth shall administer the pro-
7 gram in conjunction with the secretary of the executive office of
8 elder affairs and the commissioner of the department of revenue.

9 In order to assist interested persons in obtaining such informa-
10 tion, the outreach program shall:

11 (a) create and distribute literature outlining all tax relief pro-
12 grams for the elderly and disabled, including those providing
13 relief from state and local taxes and describing the benefits and
14 eligibility criteria for each option;

15 (b) organize presentations and workshops to better facilitate the
16 awareness and education of elderly and disabled persons in the
17 tax-related issues that concern them, what relief is available to
18 them and the application process for such relief programs; and

19 (c) create and maintain a statewide toll free telephone number
20 staffed by individuals qualified to inform and advise interested
21 and potentially eligible persons about available options designed
22 to provide limited relief from state and local taxes.

23 (d) work in conjunction with the Volunteer Income Tax Assis-
24 tance (VITA) Program and the Councils on Aging to facilitate tax
25 preparation assistance for seniors who qualify for the Senior Prop-
26 erty Tax Relief Credit.

27 The secretary of the commonwealth, the secretary of the execu-
28 tive office of elder affairs and the commissioner of the department
29 of revenue shall promulgate such regulations as are necessary to
30 implement the elderly persons tax relief outreach program.